

UNITED STATES DISTRICT COURT  
for the

Pablo M. Rivera

*Petitioner*

v.

RADM Spaulding Federal Medical Center

Devens, MA

*Respondent*

(name of warden or authorized person having custody of petitioner)

Case No.

*(Supplied by Clerk of Court)*

## PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

## Personal Information

1. (a) Your full name: Pablo Marcellino Rivera(b) Other names you have used: Paul Marshall Rivera

2. Place of confinement:

(a) Name of institution: FMC Devens, Camp(b) Address: P.O. Box 879, Ayer, MA 01432(c) Your identification number: 05914-122

3. Are you currently being held on orders by:

 Federal authorities     State authorities     Other - explain:

4. Are you currently:

 A pretrial detainee (waiting for trial on criminal charges) Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime

If you are currently serving a sentence, provide:

(a) Name and location of court that sentenced you: District of Hawaii  
Honolulu, Hawaii(b) Docket number of criminal case: 1:17-cr-00301-SOM(c) Date of sentencing: January 8, 2018 Being held on an immigration charge Other (explain):

## Decision or Action You Are Challenging

5. What are you challenging in this petition:

 How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

Pretrial detention  
 Immigration detention  
 Detainer  
 The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)  
 Disciplinary proceedings  
 Other (explain): \_\_\_\_\_

## 6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: FMC Devens, P.O. Box 879, Ayer, MA 01432(b) Docket number, case number, or opinion number: none

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

The living arrangements at the camp is conducive to the spread of COVID-19 which exposes you to the virus, resulting in possibly death.(d) Date of the decision or action: n/a**Your Earlier Challenges of the Decision or Action**7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

 Yes       No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Docket number, case number, or opinion number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

(b) If you answered "No," explain why you did not appeal: Urgent circumstances which will make my appeal futile.8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

 Yes       No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Docket number, case number, or opinion number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

\_\_\_\_\_

(b) If you answered "No," explain why you did not file a second appeal: \_\_\_\_\_

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

Yes  No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Docket number, case number, or opinion number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(b) If you answered "No," explain why you did not file a third appeal: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

Yes  No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

Yes  No

If "Yes," provide:

- (1) Name of court: \_\_\_\_\_
- (2) Case number: \_\_\_\_\_
- (3) Date of filing: \_\_\_\_\_
- (4) Result: \_\_\_\_\_
- (5) Date of result: \_\_\_\_\_
- (6) Issues raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

Yes  No

If "Yes," provide:

- (1) Name of court: \_\_\_\_\_
- (2) Case number: \_\_\_\_\_
- (3) Date of filing: \_\_\_\_\_
- (4) Result: \_\_\_\_\_
- (5) Date of result: \_\_\_\_\_
- (6) Issues raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

Yes  No

If "Yes," provide:

- (a) Date you were taken into immigration custody: \_\_\_\_\_
- (b) Date of the removal or reinstatement order: \_\_\_\_\_
- (c) Did you file an appeal with the Board of Immigration Appeals?

Yes  No

If "Yes," provide:

(1) Date of filing: \_\_\_\_\_  
(2) Case number: \_\_\_\_\_  
(3) Result: \_\_\_\_\_  
(4) Date of result: \_\_\_\_\_  
(5) Issues raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(d) Did you appeal the decision to the United States Court of Appeals?

Yes  No

If "Yes," provide:

(1) Name of court: \_\_\_\_\_  
(2) Date of filing: \_\_\_\_\_  
(3) Case number: \_\_\_\_\_  
(4) Result: \_\_\_\_\_  
(5) Date of result: \_\_\_\_\_  
(6) Issues raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. Other appeals

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

Yes  No

If "Yes," provide:

(a) Kind of petition, motion, or application: \_\_\_\_\_  
(b) Name of the authority, agency, or court: \_\_\_\_\_  
\_\_\_\_\_  
(c) Date of filing: \_\_\_\_\_  
(d) Docket number, case number, or opinion number: \_\_\_\_\_  
(e) Result: \_\_\_\_\_  
(f) Date of result: \_\_\_\_\_  
(g) Issues raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

**GROUND ONE:** The COVID-19 virus is rapidly spreading throughout the prison system and the living arrangements at the Federal Prison Camp, Devens does not allow me to practice social distancing, recommended by the CDC.

(a) Supporting facts (*Be brief. Do not cite cases or law.*):  
The living conditions at the Bureau of Prisons are inadequate to prevent me from contracting the virus. The sanitation of the unit is conducive to the spreading of the virus and my living quarters is shared with another inmate, with hardly any standing room.

(b) Did you present Ground One in all appeals that were available to you?

Yes  No

**GROUND TWO:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(a) Supporting facts (*Be brief. Do not cite cases or law.*):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) Did you present Ground Two in all appeals that were available to you?

Yes  No

**GROUND THREE:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(a) Supporting facts (*Be brief. Do not cite cases or law.*):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) Did you present Ground Three in all appeals that were available to you?

Yes  No

**GROUND FOUR:**

(a) Supporting facts (Be brief. Do not cite cases or law.)

(b) Did you present Ground Four in all appeals that were available to you?

Yes       No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

**Request for Relief**

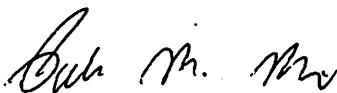
15. State exactly what you want the court to do: I would like to serve the remainder of my sentence under Home Confinement so there I can practice social distancing and shelter in place.

**Declaration Under Penalty Of Perjury**

If you are incarcerated, on what date did you place this petition in the prison mail system:

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: April 13, 2020



*Signature of Petitioner*

*Signature of Attorney or other authorized person, if any*